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To Government Code Section 6103

Attorneys for Defendants JEFFREY MACOMBER,  
in his official capacity as Secretary of the California Department  
of Corrections and Rehabilitation; and PATRICK COVELLO,  
in his official capacity as Warden of California Department of  
Corrections and Rehabilitation Mule Creek State Prison

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE,

Plaintiff,

v.

JEFFREY MACOMBER, in his official  
capacity as Secretary of the California  
Department of Corrections and Rehabilitation,

Defendant.

COUNTY OF AMADOR, *a public agency of  
the State of California,*

Plaintiff,

v.

JEFFREY MACOMBER, in his official  
capacity as Secretary of the California  
Department of Corrections and Rehabilitation;  
and PATRICK COVELLO, in his official  
capacity as Warden of California Department  
of Corrections and Rehabilitation Mule Creek  
State Prison,

Defendants.

Case No. 2:20-CV-02482-WBS-AC  
[consolidated with 2:21-CV-00038-WBS-  
AC]

**DECLARATION OF JENNIFER  
HARTMAN KING IN SUPPORT OF *EX  
PARTE* APPLICATION OF  
DEFENDANTS JEFFREY MACOMBER,  
IN HIS OFFICIAL CAPACITY AS  
SECRETARY OF THE CALIFORNIA  
DEPARTMENT OF CORRECTIONS  
AND REHABILITATION; AND  
PATRICK COVELLO, IN HIS  
OFFICIAL CAPACITY AS WARDEN  
OF CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION MULE CREEK  
STATE PRISON TO CONTINUE TRIAL  
DATE**

(Federal Water Pollution Control Act, 33  
U.S.C. §§ 1251 to 1387)

Settlement Conference: April 13, 2023  
Trial: April 18, 2023

00059896.1

1 I, Jennifer Hartman King, declare as follows:

2 1. I am President of the law firm Hartman King PC, counsel of record for Defendants  
3 JEFFREY MACOMBER, in his official capacity as Secretary of the California Department of  
4 Corrections and Rehabilitation; and PATRICK COVELLO, in his official capacity as Warden of  
5 California Department of Corrections and Rehabilitation Mule Creek State Prison (“Defendants”)  
6 and I submit this declaration in support of Defendants’ *Ex Parte* Application to Continue Trial Date.  
7 Unless otherwise specified, I have personal knowledge of the matters set forth herein and, if called  
8 as a witness, could and would competently testify thereto.

9 2. Along with Alanna Lungren, I attended the February 13, 2023 Final Pretrial  
10 Conference in this matter as counsel of record for Defendants.

11 3. During the Final Pretrial Conference, the Court did not identify the additional prefiling  
12 requirements and their associated deadlines outlined in its Pretrial Order. Rather, the Court advised  
13 that it would issue a Final Pretrial Order regarding the outcome of the Final Pretrial Conference and  
14 the Court’s remaining pretrial requirements.

15 4. At approximately 9:45 a.m. on February 14, 2023, I received an automatic e-mail  
16 message generated by the Court’s CM/ECF system. The e-mail contained a minute order of the Court  
17 related to the February 13, 2023 Final Pretrial Conference. The minute order set a Final Settlement  
18 Conference for April 13, 2023 at 9:00 a.m. The minute order did not, however, set any other deadlines.  
19 Attached hereto as **Exhibit A** is a true and correct copy of the minute order I received on February  
20 14, 2023.

21 5. On February 15, 2023, the Court issued what it identified in the docket text as the  
22 “Final Pretrial Order” confirming trial was set for April 18, 2023 and the Settlement Conference for  
23 April 13, 2023. The Court’s February 15, 2023 filing only contained docket text and did not have a  
24 document attached. This filing did not identify all of the requirements or any other deadlines  
25 prescribed in the Final Pretrial Order, except for the Settlement Conference date and deadline for  
26 Confidential Settlement Conference Statement. Attached hereto as **Exhibit B** is a true and correct  
27 copy of the minute order I received on February 15, 2023.

6. In the days and weeks following the February 13, 2023 Final Pretrial Conference, I did not receive any further e-mail messages from the Court's CM/ECF system related to the Court's Final Pretrial Order dated February 15, 2023. During this period, my firm also periodically checked the Court's docket on the ECF system and did not see any Final Pretrial Order. Finally, on March 29, 2023 at 3:38 p.m., I received an automatic e-mail message generated by the Court's CM/ECF system, providing notice that the Final Pretrial Order was available on the Court's docket. Attached hereto as **Exhibit C** is a true and correct copy of the e-mail message I received on March 29, 2023.

7. As a result of the foregoing, my firm was unaware until March 29, 2023, that the Court had issued the Final Pretrial Order or that the Court had set a series of additional and different pre-trial deadlines to file and exchange various documents and exhibits.

8. Based on the foregoing, it appears that some kind of technical or inadvertent error related to the Court's CM/ECF system prevented the parties from accessing, or being aware of, the Court's Final Pretrial Order until approximately March 29, 2023.

9. The parties' unawareness of the Final Pretrial Order has placed all parties in a serious predicament with respect to preparing for trial. First, several of the pre-trial filing deadlines set forth in the Final Pretrial Order have already passed for both parties, or are upcoming too soon to allow for meaningful and thorough preparation. The expired deadlines include both parties' deadline to object to the Final Pretrial Order; Plaintiffs' deadline to file proposed findings of fact and conclusions of law; and both parties' deadline to exchange designations of deposition testimony and interrogatory responses for use at trial. Second, proposed findings of fact and conclusions of law, and trial briefs, are due in a matter of days, and we cannot realistically prepare a thorough and organized submission within such a short period of time. Also, unfortunately, Defendants' reliance on what is published in the Local Rules and the Court's Standard Information does not account for every requirement imposed by the Court's Final Pretrial Order. Defendants (and Plaintiffs) would only have known about the Court's additional and modified pretrial filing requirements and related deadlines through receiving the Final Pretrial Order.

10. Defendants are prepared to proceed with the Final Settlement Conference that is scheduled to occur before the Honorable Dennis M. Cota on April 13, 2023 at 09:00 a.m., and to file their confidential settlement conference statement by 12:00 p.m. on April 6, 2023, as these deadlines were communicated to Defendants in the Court's February 14, 2023 minute order. Accordingly, Defendants *do not* request a continuance of these deadlines.

11. Counsel for Defendants informed Plaintiffs' counsel<sup>1</sup> on Friday morning, March 31, 2023, that we were considering that a continuance of the trial and pretrial deadlines may be necessary. Counsel for Defendants followed up later that day with a request that Plaintiffs' counsel stipulate to a request to seek a continuance of the trial date and related deadlines (except for the Settlement Conference date). Plaintiffs' counsel informed Defendants' counsel on Monday, April 3, 2023, that they would be filing an *ex parte* application regarding a different proposal pertaining to the remaining pretrial deadlines. Plaintiffs' counsel did not ask whether Defendants would oppose their *ex parte* application. Plaintiffs' counsel implicitly informed Defendants' counsel that they oppose our *ex parte* by informing us they would file an application for a different *ex parte* request. Defendants' counsel informs the Court that this instant *ex parte* application serves as Defendants' opposition to Plaintiffs' anticipated *ex parte* application.

12. Defendants determined that this request for continuance could not appropriately be noticed on the Court's motion calendar pursuant to Local Rule 230. Given the imminent trial date, the deadlines that have already been missed, and the potential need for the Court to adjust its calendar to accommodate the requested continuance, Defendants determined it would be most appropriate and considerate of the Court's schedule to bring this matter to the Court's attention as soon as possible.

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<sup>1</sup> Plaintiffs' counsel of record in this case consist of multiple attorneys from three law firms. For the County, Mr. Christopher Pisano, Ms. Rebecca Andrews, and Mr. Shawn Hagerty from national law firm Best Best & Krieger are counsel of record. For CSPA, Mr. Andrew Packard and Mr. William Carlon from the Law Offices of Andrew L. Packard, and Mr. Jason Flanders and Ms. Erica Maharg, of Aqua Terra Aeris Law Group are all counsel of record.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is true  
2 and correct to the best of my knowledge.

3 Executed on April 3, 2023, at Roseville, California.

4 

5  
6 JENNIFER HARTMAN KING

# Exhibit A

**From:** caed\_cmecf\_helpdesk@caed.uscourts.gov  
**Sent:** Tuesday, February 14, 2023 9:45 AM  
**To:** CourtMail@caed.uscourts.dcn  
**Subject:** Activity in Case 2:20-cv-02482-WBS-AC CA Sportfishing Protection Alliance v. Allison Pretrial Conference.

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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U.S. District Court

Eastern District of California - Live System

## Notice of Electronic Filing

The following transaction was entered on 2/14/2023 at 9:44 AM PST and filed on 2/13/2023

**Case Name:** CA Sportfishing Protection Alliance v. Allison

**Case Number:** [2:20-cv-02482-WBS-AC](#)

**Filer:**

**Document Number:** 109(No document attached)

### Docket Text:

**MINUTES (Text Only) for proceedings held before Senior Judge William B. Shubb: FINAL PRETRIAL CONFERENCE held on 2/13/2023. Court confers with counsel re the parties' pretrial statements, witnesses, remaining claims, and trial proceedings. Court and counsel estimate the trial to be 10 days. Court ORDERS this action REFERRED to the Hon. Dennis M. Cota, Magistrate Judge, for a Settlement Conference to be held via Zoom video conference on 4/13/2023 at 09:00 AM. (Separate Zoom information will be sent out to the parties.) Each party is directed to have a principal capable of disposition at the Settlement Conference or to be fully authorized to settle the matter on any terms at the Settlement Conference. Each party is further directed to submit via email to [DMCorders@caed.uscourts.gov](mailto:DMCorders@caed.uscourts.gov) a confidential settlement conference statement no later than 12:00 PM (Noon) on 4/6/2023. Such statements are not to be e-filed with the clerk, although the parties may agree, or not, to serve each other with the settlement statements. However, each party shall e file a one-page document entitled "Notice of Submission of Confidential Settlement Conference Statement." If the settlement judge is not the trial judge, the Confidential Settlement Conference Statement shall not be disclosed to the trial judge. Court to issue a separate pretrial order. Plaintiffs' Counsel Eric Maharg, Cristopher Pisano present. Defendants' Counsel Jennifer Hartman King, Alana Lungren present. Court Reporter: Kimberly Bennett. cc: USMJ Cota. (Kirksey Smith, K)**

2:20-cv-02482-WBS-AC Notice has been electronically mailed to:

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**2:20-cv-02482-WBS-AC Electronically filed documents must be served conventionally by the filer to:**



# Exhibit B

**From:** caed\_cmecf\_helpdesk@caed.uscourts.gov  
**Sent:** Wednesday, February 15, 2023 10:16 AM  
**To:** CourtMail@caed.uscourts.dcn  
**Subject:** Activity in Case 2:20-cv-02482-WBS-AC CA Sportfishing Protection Alliance v. Allison Pretrial Order.

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U.S. District Court

Eastern District of California - Live System

## Notice of Electronic Filing

The following transaction was entered on 2/15/2023 at 10:16 AM PST and filed on 2/15/2023

**Case Name:** CA Sportfishing Protection Alliance v. Allison

**Case Number:** [2:20-cv-02482-WBS-AC](#)

**Filer:**

**Document Number:** No document attached

### Docket Text:

**FINAL PRETRIAL ORDER signed by Senior Judge William B. Shubb on 2/14/2023 ORDERING Trial is set for 4/18/2023 in Courtroom 5, at 09:00 AM. A Settlement Conference is set before Magistrate Judge Dennis M. Cota on 4/13/2023 at 9:00 AM. No later than 12:00 PM on 4/6/2023, counsel for each party shall submit a Confidential Settlement Conference Statement via email.(Reader, L)**

**2:20-cv-02482-WBS-AC Notice has been electronically mailed to:**

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Jon Richard Cleg Parker , Jr jrpark@hartmankinglaw.com

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**2:20-cv-02482-WBS-AC Electronically filed documents must be served conventionally by the filer to:**

# Exhibit C

**From:** [caed\\_cmecf\\_helpdesk@caed.uscourts.gov](mailto:caed_cmecf_helpdesk@caed.uscourts.gov)  
**To:** [CourtMail@caed.uscourts.dcn](mailto:CourtMail@caed.uscourts.dcn)  
**Subject:** Activity in Case 2:20-cv-02482-WBS-AC CA Sportfishing Protection Alliance v. Allison Pretrial Order.  
**Date:** Wednesday, March 29, 2023 3:38:46 PM

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**U.S. District Court**

**Eastern District of California - Live System**

**Notice of Electronic Filing**

The following transaction was entered on 02/15/2023 at 10:16:14 AM PDT and filed on 02/15/2023

**Case Name:** CA Sportfishing Protection Alliance v. Allison

**Case Number:** [2:20-cv-02482-WBS-AC](#)

**Filer:**

**Document Number:** [110](#)

**Docket Text:**

**FINAL PRETRIAL ORDER signed by Senior Judge William B. Shubb on 2/14/2023 ORDERING Trial is set for 4/18/2023 in Courtroom 5, at 09:00 AM. A Settlement Conference is set before Magistrate Judge Dennis M. Cota on 4/13/2023 at 9:00 AM. No later than 12:00 PM on 4/6/2023, counsel for each party shall submit a Confidential Settlement Conference Statement via email.(Reader, L) Modified on 3/29/2023 (Reader, L).**

**2:20-cv-02482-WBS-AC Notice has been electronically mailed to:**

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Jon Richard Cleg Parker, Jr jrparker@hartmankinglaw.com

**2:20-cv-02482-WBS-AC Electronically filed documents must be served conventionally by the filer to:**

The following document(s) are associated with this transaction:

**Document description:** Final Pretrial Order

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1064943537 [Date=3/29/2023] [FileNumber=12360900-0] [64580f26b6baabe3feda89f15bc7dfaf036d6342eae50b25732e7454a33b8e3d946b5d1830a6d7d2ac5da6e37bf7295ea2376ba6fea4e26b28cf2c68040f49a9]]

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